

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:13-cv-172-GCM

JAMES C. EVANS and ZENA W. EVANS,)

Plaintiffs,)

vs.)

ORDER

FIRST HORIZON HOME LOANS, FIRST)

TENNESSEE BANK, N.A., NATIONSTAR)

MORTGAGE, LLC, SUBSTITUTE)

SERVICES, Inc.,)

Defendants.)

THIS MATTER comes before the Court on Defendants' Motions to Dismiss Plaintiffs' Complaint [Doc. Nos. 7 and 8], Plaintiffs' response, [Doc. No. 11], and Defendant's reply [Doc. No. 19]. The matters are ripe for disposition.

In their Motion to Dismiss, Defendant Substitute Trustee Services, Inc. argues that Plaintiffs' Complaint must be dismissed on the grounds that this Court lacks subject-matter and personal jurisdiction, process was insufficient, service of process was insufficient and the Complaint fails to state a claim upon which relief can be granted. [Doc. No. 7]. Likewise Defendants First Horizon Home Loans, a Division of First Tennessee Bank National Association,¹ and Nationstar Mortgage LLC argue that Plaintiffs' Complaint must be dismissed for failure to state a claim upon which relief can be granted. [Doc. Nos. 8 and 9]. Plaintiffs filed a response which is not responsive to Defendants' arguments, contains no substantive or factual

¹ Although Plaintiffs refer to both First Tennessee Bank National Association and First Horizon Home Loans, Defendants note that "First Horizon Home Loans" is a division of First Tennessee Bank National Association and, as a division, is merely a tradename or dba for First Tennessee Bank National Association. It is not a legal entity.

argument whatsoever and is incomprehensible at points.

Having reviewed the pleadings, including the Complaint, the Motions at issue and all memoranda in support of and in opposition to the Motions, the Court concludes that Plaintiffs have failed to state a claim for relief upon which relief can be granted. Therefore, for the reasons set forth in Defendants' Motions to Dismiss, [Doc. Nos. 7, 8] and the memoranda in support, [Doc. No 9], Plaintiffs' Complaint will be dismissed for failure to state a claim upon which relief can be granted.

NOW, THEREFORE, IT IS HEREBY ORDERED that:

- (1) Defendants' Motions to Dismiss [Doc. Nos. 7 and 8] are GRANTED;
- (2) Plaintiffs' Complaint is DISMISSED;
- (3) Plaintiffs' remaining motions for Orders to Show Cause and for Exchange of Security Interest [Doc. Nos. 12, 13, 14 and 15] are denied as moot.
- (4) The Clerk is directed to close this case.

SO ORDERED.

Signed: July 2, 2013



Graham C. Mullen
United States District Judge

